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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,564	11/06/2001	Emil Rudd		6894
7590	03/31/2004			
Matthew J. Peirce, Esq. 1550 Starlight Canyon Avenue Las Vegas, NV 89123			EXAMINER COLE, LAURA C	
			ART UNIT	PAPER NUMBER

1744

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/007,564

### Applicant(s)

RUDD, EMIL

### Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins, USPN 729,338.

Hawkins discloses a brush head having a top and bottom surface (Figure 2, seen as top and bottom of brush head (8)), the brush having two ends (left and right as presented in Figure 1), and two sides (forward most and rearward most of Figure 1), a hole located on the top surface (4), the hole being located near the second side of the brush head (rearward most edge) approximately halfway between the first end and second end (Figure 1), a pole having two ends (5), the first end removably inserted into the hole (Page 1 Lines 67-73), a plurality of bristles attached to the bottom surface of the brush (shown in Figures 1 and 2), and a rubber blade (7; Page 1 Line 75) attached lengthwise to the top surface of the brush head (Figure 1) near the first side of the brush head (the forward most portion, Figure 1). Hawkins does not disclose that the brush head is being approximately eight inches in length or three to five inches in width.

It would have been obvious to a person of ordinary skill in the art to have the brush head be eight inches in length, approximately three to five inches in width, the pole to be three to four feet long, and the bristles be approximately three to four inches because Applicant has not disclosed that providing these specific dimensions provides

an advantage, is used for a particular purpose, or solves a stated problem. One of

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ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the dimensions shown by Hawkins or the claimed specific dimensions because both of the dimensions perform the same function of cleaning or squeegeeing a surface.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins, USPN 729,338 in view of Lambert, USPN 5,987,685.

Hawkins discloses a brush head having a top and bottom surface (Figure 2, seen as top and bottom of brush head (8)), the brush having two ends (left and right as presented in Figure 1), and two sides (forward most and rearward most of Figure 1), a hole located on the top surface (4), the hole being located near the second side of the brush head (rearward most edge) approximately halfway between the first end and second end (Figure 1), a pole having two ends (5), the first end removably inserted into the hole (Page 1 Lines 67-73), a plurality of bristles attached to the bottom surface of the brush (shown in Figures 1 and 2), and a rubber blade (7; Page 1 Line 75) attached lengthwise to the top surface of the brush head (Figure 1) near the first side of the brush head (the forward most portion, Figure 1). Hawkins does not disclose that the brush head is being approximately eight inches in length or three to five inches in width.

Lambert discloses a cleaning tool that has a scrubbing portion (Figure 1 (24)), a rubber blade (Figure 1 (19)), and an elongated pole (Figure 1 (11)) for cleaning the windshields of cars (Column 5 Lines 52-60), wherein the scrubbing portion head is greater than about 6 inches to permit cleaning an adequate amount of windshield in a

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single pass (Column 4 Lines 40-46), which is approximately eight inches, and as it appears in Figures 1-2 that the head is *approximately* 3 to 5 inches in width.

It would have been obvious for one of ordinary skill in the art to use the dimensions taught by Lambert for the cleaning head of Hawkins so that the brush head has an efficient size for cleaning windshields of cars.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins, USPN 729,338 in view of Lambert, USPN 5,987,685, and in further view of Zimmerman, USPN 4,375,115.

Hawkins and Lambert disclose all elements above however do not disclose that the length of the handle is approximately three to four feet long.

Zimmerman discloses a cleaning and polishing implement to clean an exhaust stack of a truck that has a handle that is approximately four feet long (Column 2 Lines 16-20).

It would have been obvious for one of ordinary skill in the art to use a handle as taught by Zimmerman so that a user cleaning a vehicle will have enough extension to reach portions of even a large vehicle such as a truck.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins, USPN 729,338 in view of Lambert, USPN 5,987,685, and in further view of Peck et al., USPN 2,722,705.

Hawkins and Lambert disclose all elements above however do not disclose that the length of the bristles is approximately three to four inches.

Peck et al. disclose a brush wherein the bristles are 3 1/8 inch.

It would have been obvious for one of ordinary skill in the art to modify the bristles to a length of approximately three to four inches as taught by Peck et al. for effective cleaning.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gasper, USPN 2,335,503 in view of Lambert, USPN 5,987,685.

Gasper discloses a brush head having a top and bottom surface (Figure 2, seen as top and bottom of brush head), the brush having two ends (top and bottom as presented in Figure 1), and two sides (left and right as presented in Figure 1), a hole located on the top surface (22), the hole being located near the second side of the brush head (Figures 1 and 2) approximately halfway between the first end and second end (Figure 1), a pole having two ends (23), the first end removably inserted into the hole (winged nut (24) retains the handle (23)), a plurality of bristles attached to the bottom surface of the brush (shown in Figure 2), and a rubber blade (12; Column 2 Lines 5-6) attached lengthwise to the top surface of the brush head (Figure 1) near the first side of the brush head (left portion, Figure 1). Gasper does not disclose that the brush head is being approximately eight inches in length or three to five inches in width.

Lambert discloses a cleaning tool that has a scrubbing portion (Figure 1 (24)), a rubber blade (Figure 1 (19)), and an elongated pole (Figure 1 (11)) for cleaning the windshields of cars (Column 5 Lines 52-60), wherein the scrubbing portion head is greater than about 6 inches to permit cleaning an adequate amount of windshield in a single pass (Column 4 Lines 40-46), which is approximately eight inches, and as it appears in Figures 1-2 that the head is *approximately* 3 to 5 inches in width.

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It would have been obvious for one of ordinary skill in the art to use the dimensions taught by Lambert for the cleaning head of Gasper so that the brush head has an efficient size for cleaning windshields of cars.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gasper, USPN 2,335,503 in view of Lambert, USPN 5,987,685, and in further view of Zimmerman, USPN 4,375,115.

Gasper and Lambert disclose all elements above however do not disclose that the length of the handle is approximately three to four feet long.

Zimmerman discloses a cleaning and polishing implement to clean an exhaust stack of a truck that has a handle that is approximately four feet long (Column 2 Lines 16-20).

It would have been obvious for one of ordinary skill in the art to use a handle as taught by Zimmerman so that a user cleaning a vehicle will have enough extension to reach portions of even a large vehicle such as a truck.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gasper, USPN 2,335,503 in view of Lambert, USPN 5,987,685, and in further view of Peck et al., USPN 2,722,705.

Gasper and Lambert disclose all elements above however do not disclose that the length of the bristles is approximately three to four inches.

Peck et al. disclose a brush wherein the bristles are 3 1/8 inch.

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It would have been obvious for one of ordinary skill in the art to modify the bristles to a length of approximately three to four inches as taught by Peck et al. for effective cleaning.

### ***Applicants Arguments***

8. In the response filed 10 February 2004, the Applicant contends that:

A. Hawkins is not functional, as one would literally have to be 8 to 10 feet in the air to get an appropriate angle to get the same results as the Applicant.

B. Lambert has the rubber blade on a "bottom surface" of the brush head, the brush head appears to be rounded and not box-shaped, and the location of the rubber blade in Lambert is opposite that of the pole attachment location.

C. Gasper is not functional, as one would literally have to be 8 to 10 feet in the air to get an appropriate angle to get the same results as the Applicant.

### ***Response to Arguments***

9. Applicant's arguments A-C filed 10 February 2004 have been fully considered but they are not persuasive.

In response to applicant's arguments A and C that an individual would have to be 8 to 10 feet in the air in order to operate or function at an appropriate angle that the Applicant's use requires (for sweeping snow from a car), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result



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in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's argument B that Lambert is structurally different from the claimed invention, the Examiner restates that Lambert is for cleaning portions of a car and teaches specific dimensions for a cleaning device that is used with a car. Therefore it would have been obvious for one of ordinary skill in the art to use the dimensions taught by Lambert for the cleaning head of Hawkins so that the brush head has an efficient size for cleaning windshields of cars.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Mondays through Thursdays, and alternating Fridays, from 7:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden, can be reached at (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

*LCC*  
LCC

24 March 2004

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